



Natural Resources Conservation Service
6013 Lakeside Blvd.
Indianapolis, IN 46278

February 2, 2007

INDIANA BULLETIN NO. IN 440-7-5

SUBJECT: PGM- Requests for Modification, Cancellation, or Termination of Conservation Program Contracts for the Conservation Security Program (CSP)

Purpose: To provide instruction and policy for modifying, canceling, or terminating contracts that are administered by NRCS under the Conservation Security Program (CSP). With the issuance of this bulletin the attached participant *Conservation Security Program Request for Contract Modification/Cancellation* form will be used exclusively for CSP.

Expiration Date: September 30, 2007

Background: It is a common occurrence to need to modify CSP contracts and is occasionally necessary to cancel or terminate a CSP contract for a variety of reasons. When this need arises, NRCS must ensure that policy is followed and agency and client interests are protected. To process requests for modification, cancellation, or termination in an accurate and timely manner, Indiana will use the attached *Conservation Security Program Request for Contract Modification/Cancellation* form and process them according to the steps outlined in this bulletin.

CSP contracts can be modified generally under two circumstances. One is during an announced modification period which will allow only those modifications as stipulated and authorized by National Bulletin stating the allowed modifications. Second are Maintenance Modifications due to changes in the operation such as involuntary loss of land, change in payment shares, or other modifications where there is no net increase in the contract costs. Cost recovery under maintenance modifications may or may not be appropriate depending on the participant's written request on the attached *CSP Request for Contract Modification/Cancellation* form.

A CSP contract may be cancelled by both parties, or terminated for cause by NRCS. In either event, the obligations contained in the CSP contract are ended through action that ends the responsibilities of both parties to the contract. There is a slight, but significant difference in the terminology used when CSP obligations are ended, as follows:

Cancellation — a cancellation is requested by the participant and is an *equitable remedy* that allows both parties to the contract to end the contractual relationship. Cost recovery may or may not be appropriate depending upon the circumstances included in the participant's written request for cancellation.

Termination — a termination is requested only by NRCS and results from a material breach of the terms and conditions of the contract. Terminations for cause will usually result in a cost recovery of payments, interest, and liquidated damages associated with the administration of the breached contract.

The following procedures must be followed by District Conservationists (DC), and others, for all CSP contract modifications, cancellations, or terminations:

1. The participant may request the following Modifications by request using the “*Conservation Security Program Request for Contract Modification/Cancellation*” form. This request must be for one of the following purposes:
 - A. Announced Modification Period – only allowed during a specific announced “sign up” period. Procedures will be detailed in the NHQ announcement documentation.
 - B. Maintenance Modification due to one of the following:
 - a. Loss of Control of all or part of the land under contract. (Under CSP this loss can be all or part of the land under contract.)
 - I. Loss is Voluntary – Cost recovery will be required unless reasons given by participant, field office, and Area Office are adequate to prove the reduction or elimination of cost recovery to the satisfaction of the State Conservationist.
 - II. Loss is Involuntary – if evidence supports this determination then no cost recovery will be required.
 - b. Change in Participant Shares – requires completion of NRCS-CPA-152 and NRCS-CPA-1156 with all required signatures.
 - c. Deleting Contract items – there must be valid reason not adverse to the Government’s interest and conservation objectives for deleting any contract item. Documentation must be submitted with the request and the participant is required to sign the NRCS-CPA-1156.
 - d. Destruction of Practices established under contract – participant required to provide documentation supporting the need to destroy the practice. Participant required to sign the NRCS-CPA-1156.
2. If the participant requests contract cancellation the participant must complete the “*Conservation Security Program Request for Contract Modification/Cancellation*” form attached to this Bulletin. This form must be completed, signed, and dated by the participant and returned to NRCS. NRCS will not complete any part of the first 2 pages of this form but will complete, with the participant, the potential estimated cost recovery calculation on page 4 of the “*Conservation Security Program Request for Contract Modification/Cancellation*” form.
 - A. Cancellation of Contract with no successor – Cost recovery can be expected. Documentation from the participant detailing why they wish to cancel the contract and reasons that would support the reduction of cost recovery by the State Conservationist. If this is the case proceed to Item 3 in this bulletin.

- B. Cancellation with signed Transfer Agreement – Must have signed NRCS-CPA-152 by all involved parties. NRCS-CPA-1156 must be signed after modification is approved. Use the following procedure to complete the transfer process:
 - a. Field Office:
 - I. Receive signed NRCS-CPA-152 from participants.
 - II. Complete needed modifications in ProTracts
 - III. Scan NRCS-CPA-152 and “*Conservation Security Program Request for Contract Modification/Cancellation*” form.
 - IV. Submit all needed documents to your Area Program Specialist
 - b. Area Office:
 - I. Review modification in ProTracts, have field office make any needed corrections
 - II. Submit scanned NRCS-CPA-152, “*Conservation Security Program Request for Contract Modification/Cancellation*” and any other documentation to the appropriate State Office Programs staff for review and approval
 - c. State Office:
 - I. Review modification in ProTracts, approve modification when recommended by Area Office
 - II. Review NRCS-CPA-152 Transfer Agreement, Sign
- 3. If NRCS requests contract ***Termination***; once the participant has signed a request for ***Cancellation with no successor***; or they have requested modification for ***Voluntary Loss of Land***, or ***destruction of conservation practices*** then NRCS will use the “*Conservation Program Contract (CPC) Cancellation or Termination*” form which was transmitted to the field with Indiana Bulletin IN 440-7-4. This form must then be submitted and forwarded as required in Indiana Bulletin IN 440-7-4.

The policy for canceling or terminating program contracts can be found in (440-V-CPM, Amend. 32, October 2006) Part 512.57 paragraph’s A through D. For CSP also see Part 518.100(E) for further instructions on cancellation or termination of a CSP contract.

If you have questions concerning the guidance in this memo, please contact your supervisor or the Programs staff.

/s/

JANE E. HARDISTY
State Conservationist

Attachments